

PS 8D
(05/08)

June 3, 2014

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA 14 JUN -4 PM 1:55

Petition for Warrant for Defendant on Pretrial Release

DEPUTY
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Name of Defendant: David Garcia (Spanish)

Dkt No.: 14CR584H-001

Reg. No.: 46481-298

Name of Judicial Officer: The Honorable Marilyn L. Huff, U.S. District Judge (matter referred to Judge Stormes for review)

Date Conditions Ordered: February 25, 2014, before the Honorable Nita L. Stormes, U.S. Magistrate Judge

Charged Offense: 21 USC 846 & 841 (a)(1) - Conspiracy to Distribute Methamphetamine

Conditions of Release: restrict travel to Southern District of California; do not enter Mexico; report for supervision to Pretrial Services Agency (PSA) as directed by the assigned Pretrial Services Officer and pay for the reasonable costs of supervision in an amount determined by PSA and approved by the Court; not possess or use any narcotic drug or other controlled substance as defined in 21 U.S.C. § 802, without a lawful medical prescription; not possess any firearm or other dangerous weapon or explosive device; read, or have explained, and acknowledge understanding of the Advice of Penalties and Sanctions Forms; provide the court a current residence address and telephone number prior to release from custody and keep it current while the case is pending; be able to legally remain in the United States during pendency of the proceeding; actively seek and maintain full-time employment, schooling, or combination both; reside with his father or brother in Chula Vista; and surrender passport and not apply for a new one.

Modification: On April 18, 2014, your Honor ordered the defendant to submit to treatment and/or testing, for drugs or alcohol, as specified by Pretrial Services.

Date Released on Bond: March 11, 2014

Next Court Hearing: July 18, 2014, at 9:00 a.m. (Sentencing)

Asst. U.S. Atty.: Alex W. Markle
(619) 546-9728

Defense Counsel: Thomas P. Matthews (Appointed)
(619) 236-3400

Prior Violation History: On April 15, 2014, the undersigned submitted a letter to your Honor informing you the defendant went to Mexico without authorization on April 4, 2014. We requested action be held in abeyance and your Honor agreed.

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PETITIONING THE COURT**TO ISSUE A NO-BAIL BENCH WARRANT**

The Pretrial Services officer believes that the defendant has violated the following condition(s) of pretrial release:

CONDITION(S)**ALLEGATION(S) OF NONCOMPLIANCE****(Special Condition)**

Submit to treatment and/or testing for drugs or alcohol, as specified by Pretrial Services.

1. On May 8, 2014, the defendant failed to appear for drug testing as directed.
2. On May 20, 2014, the defendant failed to appear for drug testing as directed.

(Standard Condition)

Not possess or use any narcotic drug or controlled substance (defined in 21 USC 802) without a lawful medical prescription.

3. On May 21, 2014, the defendant submitted a urine specimen that screened positive for the presence of cocaine.

(Standard Condition)

Report for supervision to Pretrial Services Agency (PSA) as directed by the assigned PSO and pay for the reasonable costs of supervision in an amount determined by PSA and approved by the Court.

4. On May 27, 2014, the defendant failed to appear in person as directed by Pretrial Services.

Grounds for Revocation:

Regarding allegations 1 and 2: I received and reviewed the Pretrial Release Drug Testing Instructions dated and signed by the defendant on April 22, 2014. The defendant was instructed to call the drug testing line nightly after 8:15 p.m., and if his identification number was called, he was required to report the following day during testing hours. Probation testing records show the defendant failed to appear for testing on May 8th and May 20th 2014. On May 12, 2014, the undersigned spoke to the defendant regarding his missed drug test on May 8th. The defendant explained he was experiencing technical problems with the testing line. The undersigned directed him to contact me or the person on duty should he experience any future problems. On the evening of May 20, 2014, the undersigned

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contacted the defendant and informed him he failed to test on this date. Mr. Garcia related he lost the testing line number. I asked him why didn't he call me to obtain the number? The defendant stated he was working two jobs and simply did not have the time to call. The undersigned informed him that this was his second consecutive failure to appear for testing and should this continue violation proceedings will be initiated. I informed him his conduct raised concerns as to whether he is attempting to avoid detection of illicit drug use. The defendant stated he was not using drugs. I directed him to appear in my office on May 21, 2014.

Regarding allegation 3: I received and reviewed a written laboratory notification from Alere Toxicology Services Laboratory Specialists, Inc., which verifies the urine specimen provided by the defendant at our office on May 21, 2014, screened positive for the presence of cocaine. On May 25, 2014, the undersigned spoke to the defendant and directed him to appear in my office on May 27, 2014 before 4:00 p.m. The defendant agreed to do so.

Regarding allegation 4: The defendant did not appear in our office on May 27, 2014, as instructed. The undersigned did not receive any telephone calls from the defendant. On May 28, 2014, our office left messages for the defendant and his father, who is the surety on this case. We also spoke to the defendant's attorney, Thomas Matthews, informing him of the defendant's violations. Mr. Matthews agreed to contact his client and have him contact our office. On May 30, 2014, the undersigned left messages again for the defendant and his father indicating if Mr. Garcia does not appear in my office on June 2, 2014, a warrant will be requested. Additionally, I emailed Mr. Matthews the same information.

SUPERVISION ADJUSTMENT

The defendant submitted his first urine specimen on April 24, 2014, and the test result was negative. After this test, the defendant began failing to appear for drug testing and eventually provided a positive drug test. Currently, the defendant is non-responsive to our attempts to bring him back into compliance. Both the defendant and his father are not returning our calls and the defendant's whereabouts remain unknown. With this considered, Pretrial Services views the defendant's supervision as poor.

Criminal computerized record checks reveal no new arrests or convictions.

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RECOMMENDATION/JUSTIFICATION

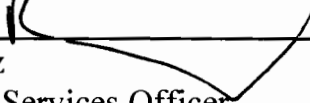
In consideration of his current violations and given his whereabouts are unknown, Pretrial Services respectfully recommends your Honor issue a No Bail Bench Warrant for the defendant's arrest to bring him before the Court and show cause why his bond should not be revoked.

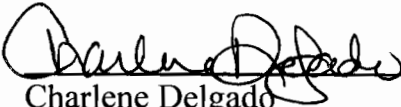
I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 6/3/14

Respectfully submitted:
LORI A. GAROFALO
CHIEF PRETRIAL SERVICES OFFICER

Reviewed and approved:


by 
Eleonor Ruiz
U.S. Pretrial Services Officer
(619) 557-2991
Place: San Diego, California


Charlene Delgado
Supervising U.S. Pretrial Services Officer

THE COURT ORDERS:

☒ **AGREE, ISSUE A NO BAIL BENCH WARRANT FOR THE DEFENDANT'S ARREST AND ORDER HIM TO SHOW CAUSE WHY HIS BOND SHOULD NOT BE REVOKED.**

☐ **Other** _____


The Honorable Nita L. Stormes
U.S. Magistrate Judge

6-3-14
Date